

1 LATHAM & WATKINS LLP
2 Timothy P. Crudo (Bar No. 143835)
3 (timothy.crudo@lw.com)
4 505 Montgomery Street, Suite 2000
5 San Francisco, California 94111-6538
6 Telephone: 415.391.0600
7 Facsimile: 415.395.8095

5 Attorneys for Plaintiff
6 THOMAS S. WU

7 Additional Counsel On Signature Block

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

11 THOMAS S. WU

12 Plaintiff,

13 v.

14 FEDERAL DEPOSIT INSURANCE
15 CORPORATION, in its capacity as receiver
16 of United Commercial Bank,

17 Defendant.

18 CASE NO. CV10-4085 JSW

19 Assigned to Hon. Jeffrey S. White

20 **STIPULATION AND [PROPOSED] ORDER
WITHDRAWING DEFENDANT FDIC-
RECEIVER'S MOTION TO DISMISS AND
CONTINUING CASE MANAGEMENT
CONFERENCE**

21 Date: December 17, 2010
22 Time: 9:00 a.m.
23 Location: Courtroom 11
24 Judge: Hon. Jeffrey S. White

STIPULATION

WHEREAS, Plaintiff filed the Complaint in this action on September 10, 2010; WHEREAS, Defendant FDIC-Receiver has filed a motion to dismiss Plaintiff's Complaint (the "Motion to Dismiss"), scheduled to be heard on January 21, 2011;

WHEREAS, the parties have agreed that, in lieu of Plaintiff responding to the Motion to Dismiss, Defendant FDIC-Receiver will withdraw the Motion to Dismiss and Plaintiff will file an amended complaint (the “Amended Complaint”);

8 WHEREAS, the initial Case Management Conference in this matter is currently
9 set for December 17, 2010, and the Joint Case Management Statement and Rule 26(f) Report is
10 due to be filed on December 10, 2010;

11 WHEREAS, the Court ordered that Plaintiff and Defendant serve upon one
12 another initial disclosures by December 10, 2010;

13 WHEREAS, the parties have scheduled a mediation to take place on March 15-
14 16, 2011 (the “Mediation”); and

15 WHEREAS, the parties believe that it would promote efficiency and the
16 conservation of the Court's and the parties' resources to continue certain dates until after the
17 Mediation;

18 THEREFORE, the parties, through their respective counsel of record, hereby
19 agree and STIPULATE that:

20 1. Plaintiff shall file the Amended Complaint on or before January 10, 2011;

21 2. Defendant Motion to Dismiss shall be deemed withdrawn;

22 3. Defendant shall respond to the Amended Complaint within 30 days of the

23 scheduled Mediation, and no later than April 15, 2011;

24 4. The Case Management Conference and all attendant matters – including

25 the filing of the Joint Case Management Statement and Rule 26(f) Report, and the serving of the

26 parties' initial disclosures under Fed. R. Civ. P. 26(a) – shall be continued until after April 15,

27 2011 on a date to be set by the Court; and

1 5. The parties shall abstain from discovery until after meeting and conferring
2 with respect to the contents of the Joint Case Management Conference Statement, but shall meet
3 and confer in good faith regarding a potential informal exchange of relevant information prior to
4 the Mediation in order to make the mediation process more productive.

5 | Dated: December 10, 2010

LATHAM & WATKINS LLP

By /s/ Timothy P. Crudo
Timothy P. Crudo
Attorneys for Plaintiff Thomas S. Wu

11 | Dated: December 10, 2010

NIXON PEABODY LLP

By /s/ Andrew R. Neilson
Andrew R. Neilson
*Attorneys for Defendant Federal Deposit
Insurance Corporation, as receiver of
United Commercial Bank and in its
corporate capacity*

[PROPOSED] ORDER

IT IS SO ORDERED.

26 | Dated: December 13, 2010

Jeffrey S. White
Honorable Jeffrey S. White